

REMARKS

Applicant gratefully acknowledges the courteous and helpful interview conducted October 21, 2008. Claims 1, 8, 14 and 18-24 have been amended. Claims 1-15 and 17-24 remain pending in this application.

Claims 1-17 and 19-24 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 8, 14 and 9-24 have been amended to address the concerns expressed in the Office Action, thus, Applicant respectfully requests that the rejection be withdrawn.

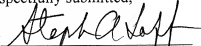
Claims 1-24 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection and requests reconsideration. As discussed during the interview, each of claims 1-24 recites method steps performed on an allograft and also on surgical instrumentation, both of which are compositions of matter under section 101. Thus, since each claim recites method steps performed on compositions of matter, the claims are directed to statutory subject matter and the rejection should be withdrawn.

Claims 18, 21, 23 and 24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bradbury et al. (U.S. 2002/0007294 A1). Claims 1-4 and 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradbury et al. (U.S. 2002/0007294 A1) in view of Filho (U.S. Patent No. 6,089,867) and further in view of Applicant's admitted prior art ("AAPA"). Claims 5-6 and 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradbury, in view of Filho, in view of AAPA and further in view of Ramshaw et al. (U.S. Patent No. 5,791,907). Claims 7 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradbury, in view of Filho, in view of AAPA and further in view of AORN Journal. Claims 14, 15 and 17 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over Bradbury, in view of Filho and further in view of Ramshaw. Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradbury in view of Ramshaw. Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradbury in view of Hoeman et al. (U.S. 2002/0082220 A1). Applicant respectfully traverses these rejections and requests reconsideration.

Bradbury claims priority to provisional application no. 60/194,965, filed April 5, 2000. However, Applicant conceived of and reduced to practice the claimed invention at least as early as April 4, 2000. As discussed during the interview, the Declaration of Reinhold Schmieding under 37 C.F.R. § 1.131, filed on April 30, 2008, fully complies with the requirements of MPEP §§ 715.02 and 715.07, and establishes Applicant's prior invention of the claims. Thus, Bradbury is not prior art to the claimed invention and the rejections should be withdrawn.

Dated: October 29, 2008

Respectfully submitted,

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